FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Civil Application No. 751/2007
in
First Appeal No. 242/2003 (Decided)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : February 8, 2007.

By this civil application, the applicants/ legal heirs of deceased respondent seek permission to withdraw the decretal amount deposited by the appellants in this Court and which is presently lying with the Andhra Bank, High Court Branch, Nagpur. It is stated in the application that the appeal filed by the State is abated and, therefore, since the first appeal no longer exists, it is necessary in the interest of justice to permit the applicants to withdraw the amount lying with the Andhra Bank.

Shri Sonak, the learned A.G.P., pointed out that the State has already filed the applications for setting aside the abatement and bringing the legal heirs of deceased respondent on record, and this Court has, by the order dated 23rd January, 2007, issued notices to the respondents on the said application.

It appears from the order-sheet that this Court, by the order dated 10/4/2003, after hearing the counsel for both the parties, permitted the respondent to withdraw only one lac rupees deposited by the appellants in this Court and had directed the Additional Registrar to invest the balance amount in a fixed deposit for a period of 37 months with Andhra Bank, to be renewed from time to time until further orders.

Since the order dated 10/4/2003 was passed after hearing the counsel for both the parties, there cannot be a modification of the order dated 10/4/2003. Even otherwise, since the appellants have already applied for bringing the legal heirs of deceased respondent on record and also for setting aside the abatement, if any, and this Court has issued notice on the said applications, this civil application cannot be granted.

Civil application is, therefore, dismissed and disposed of.

JUDGE

RMP